

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1003 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

DIPU @ DIPTIBEN MUKUNDLAL TAPODHAN

Versus

MUKUNDLAL RATILAL TAPODHAN

Appearance:

1. Criminal Misc.Application No. 1003 of 1997
MR BC DAVE for Petitioner No. 1-12
NOTICE SERVED for Respondent No. 1
MR PR ABICHANDANI, APP for Respondent No. 2
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CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 19/02/2003

ORAL JUDGEMENT

Heard learned counsel for the petitioners,
Mr.B.C.Dave and learned APP for the respondent No.2,
Mr.P.R.Abichandani. The respondent No.1-original

complainant was being represented by an advocate and since the said advocate passed away during the pendency of this petition, fresh notice was issued to the respondent No.1 which was duly served upon him. However, he has chosen not to appear either personally or through advocate when the matter was called out today.

2. Learned counsel for the petitioner has taken me through the complaint in question which has been filed by the petitioner directly in the Court of learned J.M.F.C., Dabhoi, which has been registered as Criminal Case No.118 of 1997. After recording the statement of the respondent No.1-complainant, learned Magistrate issued non-bailable warrant against accused Nos.3,4,5 and 6 while bailable warrant was issued against accused Nos.1, 2, 7 to 12. Thereafter, they were released on bail and ultimately present petition has been filed for quashing the complaint in question. At the time of admission, petitioner Nos.1 and 2 were present in the Court with their advocates wherein my Brother Judge, Mr. Justice N.N.Mathur has recorded the statement of petitioner No.1, Dipu @ Diptiben Mukundlal Tapodhan on 7-5-1997 which reads as under:

"Ms.Dipu, petitioner No.1 is present in the Court. It is stated by her that she is aged 28 years and she has married with petitioner No.2-Rajesh willingly without any pressure. It is not in dispute that Rajesh is son of petitioner No.1's father's sister (a brother being fui's son). S.O. to 7-5-1997."

Thereafter, the whole proceedings were stayed.

3. I have gone through the complaint together with other relevant documentary evidence produced by the petitioners with this petition namely, xerox certified copy of the marriage registration certificate annexed as Annexure-A with this petition wherein age of the petitioner No.1 was shown to be 27 years whereas age of the petitioner No.2 was been shown to be 28 years which means that both have attained the age of majority.

4. It is borne out from the statement of the petitioner No.1 recorded by the court on 7-5-1997 that petitioner Nos.1 and 2 are husband and wife respectively and their marriage has taken place on 26-12-1996 and as their marriage was not liked by their parents, present complaint has been filed against the petitioners under secs.380, 504, 506(2) and 114 of IPC by the respondent No.1. On going through the entire complaint and keeping

in mind the statement of petitioner No.1, the marriage registration certificate and age of the petitioner Nos.1 and 2, it leads to the only conclusion that the complaint in question is nothing but the pressure tactics adopted by the father and it is a clear case of misuse of the process of law wherein complainant has tried to involve other ten people who have practically nothing to do with the case in question.

5. Having regard to the above, I am of the opinion that this application deserves to be allowed and the complaint in question requires to be quashed.

6. This petition is allowed. The complaint being Criminal Case No.118 of 1997 and its proceedings pending in the Court of learned J.M.F.C., Dabhoi filed by the present respondent No.1 against the applicants under Secs.380, 504, 506(2) and 114 of IPC are quashed and set aside. Rule is made absolute accordingly.

7. While dealing with these types of matters, court below shall see to it that the complaint does not contain anything against the persons unconcerned with.

(R.P.DHOLAKIA, J.)
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